

SM

Notice of Allowability

Application No.

09/857,343

Examiner

David M. Naff

Applicant(s)

Angele et al

Art Unit

1651

817

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to telephone interview of 1/5/04.
2. ☒ The allowed claim(s) is/are 1-4,6-13,23-26 and 32-38.
3. ☒ The drawings filed on 12 February 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

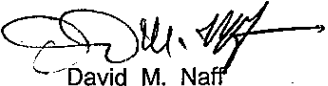
7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>1/5/04</u> |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No. _____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |


David M. Naff
Primary Examiner
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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Cancel the title and insert the following title ---
MATRIX FOR TISSUE ENGINEERING FORMED OF A HYALURONIC ACID ESTER
AND HYDROLYZED COLLAGEN ---.

This application is in condition for allowance except for the presence of claims 14-19 and 27-31 to an invention non-elected without traverse. Accordingly, claims 14-19 and 27-31 have been cancelled.

Claim 5, line 1, change "5" to --- 1 --- since claim 5 has been canceled.

Applicants' representatives, Marvin Motsenbocker and Patricia C. Granados, authorized the following amendments by telephone on 1/5/04.

In the abstract,

line 1, cancel "The invention relates to", and change "a" to --- A ---;

line 2, before "formed" insert ---- is ---;

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line 3, after the comma insert --- which are preferably in a weight ratio range of 30:70 to 99:1. A preferred hyaluronic acid derivative is an ester such as an ethyl or benzyl ester. The matrix is prepared by dissolving the hyaluronic acid derivative and hydrolyzed collagen in a first solvent, adding a pulverulent compound virtually insoluble in the first solvent, removing the first solvent, and dissolving the pulverulent compound in a second solvent. ---, and cancel "which" and insert --- The matrix ---.

In the specification,

In the brief description of the drawings inserted by an amendment of 7/14/03 (paper no. 11) to page 3,

in the description of figure 1, cancel "Figure 1 shows" and insert --- Figures 1A and 1B show ---, cancel "above" and insert --- A ---, and cancel "below" and insert --- B ---;

in the description of figure 2, cancel "Figure 2 shows" and insert --- Figures 2A and 2B show ---, cancel "above" and insert --- A ---, and cancel "below" and insert --- B ---;

in the description of figure 3, cancel "Figure 3 shows" and insert --- Figures 3A and 3B show ---, cancel "above" and insert --- A ---, and cancel "below" and insert --- B ---;

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in the description of figure 4, cancel "Figure 4 shows" and insert --- Figures 4A and 4B show ---, cancel "above" and insert --- A ---, and cancel "below" and insert --- B ---.

In the claims,

Claim 24,

line 1, before "implant" insert --- porous composite matrix of the ---;

line 7, after the semicolon, cancel "and";

line 8, change the period to a semicolon, and after the semicolon insert --- and ---;

below line 8, insert ---

dissolving the pulverulent compound in the second solvent to obtain said porous composite matrix. ---.

Claim 34,

line 2 cancel "construction of a" and insert --- use as ---, and cancel "apparatus" and insert --- tissue ---.

Claim 35,

line 2, cancel "forming" and insert --- use as ---,

line 3, cancel "apparatus" and insert --- tissue ---.

Claim 37,

line 3, cancel "further";


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line 4, before "and" insert --- other than hyaluronic acid ---, cancel "their", and before the period insert --- of the glycosaminoglycans other than hyaluronic acid ---.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Naff whose telephone number is 703-308-0520. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 703-308-4743. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.



David M. Naff
Primary Examiner
Art Unit 1651